

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PRESTON WILLIAM BRAXTON,)

Petitioner,)

v.)

A.P. KANE, et al.,)

Respondents.)

No. C 06-3582 JSW (PR)

**ORDER DISMISSING PETITION
AND DENYING PENDING MOTIONS**

(Docket nos. 2, 4, 5)

Petitioner, a state prisoner formerly incarcerated at the Correctional Training Facility in Soledad, California, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner also filed a motion to proceed *in forma pauperis* (docket nos. 2, 4) and a motion seeking appointment of counsel (docket no. 5). On July 26, 2006, Petitioner notified the Court that he had been released and provided a change of address for this matter (docket no. 6)

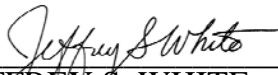
In the present petition, Petitioner claims that he was forced to sign a blank "Notice of Conditions" form prior to being released on parole. However, Petitioner's claims do not allege the violation of any constitutional right and the Court cannot discern any from the claims raised therein.

A person in custody pursuant to the judgment of a state court can obtain a federal writ of habeas corpus only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States. 28 U.S.C. § 2254(a). In other words, a writ of habeas corpus is available under § 2254(a) "only on the basis of some transgression of federal law binding on the state courts." *Middleton v. Cupp*, 768 F.2d 1083, 1085 (9th Cir. 1985) (citing *Engle v. Isaac*, 456 U.S. 107, 119 (1982)), *cert. denied*, 478 U.S. 1021 (1986). It is

1 unavailable for violations of state law or for alleged error in the interpretation or application
2 of state law. *See Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991); *Engle*, 456 U.S. at 119;
3 *Peltier v. Wright*, 15 F.3d 860, 861-62 (9th Cir. 1994). Petitioner's case is therefore
4 DISMISSED without prejudice for failure to state a cognizable claim for habeas relief. The
5 Clerk shall terminate all pending motions as MOOT, close the file and enter judgment.

6 IT IS SO ORDERED.

7 DATED: January 4, 2007


JEFFREY S. WHITE
United States District Judge